



Atty. Docket No. 25063.0002

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re U.S. Patent Application of

Timothy P. COLEMAN et al.

Serial No.: 09/495,947

Group Art Unit: 1632

Filed: 2 February 2000

Examiner: Q. Li

For: ADVANCED ANTIGEN PRESENTATION PLATFORM

DECLARATION OF DARRELL L. PETERSON, Ph.D., UNDER 37 C.F.R. § 1.131

Commissioner for Patents
Washington, D.C. 20231

I, Darrell L. Peterson, Ph.D., declare the following:

1. I am an inventor of the above-identified patent application, Serial No. 09/495,947.
2. I am familiar with the file related to the above-identified patent application, Serial No. 09/495,947. I have read and I am familiar with the Office Action mailed 21 June 2002 pertaining to this application.
3. I understand that in the Office Action mailed 21 June 2002 the Examiner rejected claims 1, 2, and 10 as anticipated by Köck et al., 72(11) J. VIROL. 9116-20 (1998) ("Köck"). A copy of Köck is attached as Exhibit A.
4. I have read and I am familiar with Köck. It is my understanding that Köck became publicly available on 15 October 1998, as indicated by the received-date stamped on a copy of the face of the volume containing Köck that was obtained from the University of Minnesota.
5. I, as the inventor, conceived the inventions defined by the claims present in the current application, Serial No. 09/495,947, before the date Köck became publicly available.

Attached as Exhibit B is a copy of the Virginia Commonwealth University Invention Disclosure, prepared and submitted prior to the date that Köck became publicly available.

6. Pages 5 and 6 of the disclosure evidence the conception of the inventions presently claimed in the present application, Serial No. 09/495,947. For example, page 5 reads “4. [dHbcAg] differs from human HbcAg by having no inter-chain disulfide bonds. It is this latter property that makes this an attractive alternative, that is amenable to modifications not readily performed with the human HbcAg, which is held together by 3 interchain disulfide bridges.” In addition, page 5 states “1. Insert coding sequences into the duck core protein gene that will code for epitopes of important antigens (such as HBV, HCV, HIV, malaria).” Further, the paragraph bridging pages 5 and 6 states that “[t]his can probably be done because the duck core protein is not held together by interchain disulfide bonds, and can be dissociated at high pH . . . and the core protein allowed to reassemble at neutral pH.” These pages, evidencing the conception of presently claimed inventions, existed before 15 October 1998, the date that Köck became publicly available. In addition, the conception of presently claimed inventions occurred in the United States.

7. Thereafter, the subject matter of the claims of the instant application was diligently reduced to practice. Such diligence is evidenced, for example, by the filing of the provisional patent application, Serial No. 60/118,526, on 2 February 1999. Attached as Exhibit C is a copy of the filing receipt related to the present application, Serial No. 09/495,947, establishing that the present application, Serial No. 09/495,947, claims the benefit of a provisional patent application, Serial No. 60/118,526, filed on 2 February 1999.

8. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true. The statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issuing thereon.


Inventor: Darrell L. Peterson, Ph.D.

18 Dec 02
Date